

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

BILLY D. FOWLER,

Petitioner,

v.

MAGGIE MILLER-STOUT,

Respondent.


Case No. C06-5620FDB

ORDER DENYING CERTIFICATE  
OF APPEALABILITY

The adopted the Report and Recommendation in this case concerning the burglary of a pawn shop, and Petitioner has now filed an appeal. Petitioner complained about the failure to maintain a video tape that showed nothing but the cloth upon which the jewelry was lying being pulled out of view of the video. This court agreed with the Magistrate Judge that the failure to take the video tape into evidence did not violate any duty or right owed to Petitioner. Petitioner also complained about the sufficiency of the evidence to convict him, but this Court agreed with the Report and Recommendation that the circumstantial evidence in this case allowed the jury to find every element of the charged offenses, and the Washington State Court of Appeals decision in this case did not involve an unreasonable determination of the facts nor was an unreasonable application of clearly established federal law implicated.

ACCORDINGLY, IT IS ORDERED: Certificate of Appealability in this case is DENIED.

DATED this 14<sup>th</sup> day of June, 2007.

  
FRANKLIN D. BURGESS  
UNITED STATES DISTRICT JUDGE